

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CLAUDE R. KNIGHT AND CLAUDIA
STEVENS, INDIVIDUALLY AND AS
PERSONAL REPRESENTATIVES OF
THE ESTATE OF BETTY ERELENE
KNIGHT, DECEASED
Plaintiffs,

v.

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.
Defendant.

Civil Action No. 3:15-cv-06424

JURY TRIAL DEMANDED

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION IN LIMINE NO. 7 TO BAR
THE OPINIONS AND TESTIMONY OF DR. BRIAN HARVEY AT TRIAL**

Plaintiffs, Claude R. Knight and Claudia Stevens, Individually and as Personal Representative of the Estate of Betty Erelene Knight, Deceased, hereby respond to Boehringer Ingelheim Pharmaceuticals, Inc.'s ("Boehringer") Motion *in Limine* No. 7 to bar the opinions and testimony of Dr. Harvey by affirming to the Court and counsel that Plaintiffs do not intend to call Dr. Harvey to testify at the trial of this case. As such, the Court should deny Boehringer's motion as moot.

Plaintiffs further note that this motion, which Boehringer has called a motion *in limine*, is actually a Daubert motion seeking to exclude the testimony of Plaintiffs' expert witness pursuant to Rule 702. Plaintiffs note that the deadline for filing dispositive motions was January 20, 2018 [Doc. 38]. Defendant Boehringer filed its Omnibus Motion to Exclude the Opinions of Plaintiffs' General Experts [Doc. 48] on January 19, 2018, but did not seek to exclude Dr. Harvey or any of his opinions in that motion. The present motion was not timely filed, and should further be denied for that reason.

Dated: April 30, 2018

RESPECTFULLY SUBMITTED,

By: /s/ C. Andrew Childers

C. Andrew Childers, *admitted pro hac vice*

Emily T. Acosta, *admitted pro hac vice*

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION IN LIMINE NO. 7 TO BAR THE OPINIONS AND TESTIMONY OF DR. HARVEY was served on all parties via the Court's ECF system.

This 30th day of April, 2018.

/s/: C. Andrew Childers

C. Andrew Childers
Attorney for Plaintiff
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